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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/972,802	10/09/2001	George H. Small	104410-100	6750

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EXAMINER

PHIOGENE, PEDRO

ART UNIT

PAPER NUMBER

3732

DATE MAILED: 10/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

SM

**Office Action Summary**

Application No.

09/972,802

Applicant(s)

SMALL, GEORGE H.

Examiner

Pedro Philogene

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
 Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 October 2001.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some \* c) ☐ None of:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 02.                      6) ☐ Other:

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8, 11, 12, 13, 16, 17, 21-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Merritt (5,006,830).

With respect to claim 1, Merritt discloses an umbilical cod clamp (10) comprising a pair of arms (11, 12) each having a length in a generally V-shaped configuration having rear end portion associated at an apex and having free end forward end portions normally disposed in a spaced apart relation; as best seen in FIG. 1, and being movable towards each other for clamping an umbilical cord between the arms; a grasping portion (21, 22) that is disposed on each arm transversely to the length thereof and sufficiently sized and shaped to receive a finger or tool so as to facilitate grasping and closing of the clamp; and a locking portion (15, 16, 18, 19) for securing the arms together when the clamp is closed; as best seen in Fig. 2.

With respect to claims 2-8, 10, Merritt discloses all the limitations; as set forth in column 3, lines 29-68; and as best seen in FIGS. 1-5.

With respect to claim 13, Merritt discloses an umbilical cod clamp (10) comprising a pair of arms (11, 12) each having a length in a generally V-shaped configuration having rear end portion associated at an apex and having free end forward end portions normally disposed in a spaced apart relation; as best seen in

FIG.1, and being movable towards each other for clamping an umbilical cord between the arms; a channel (23,24) that extends substantially along the length of at least one arm to facilitate the escape of fluid therefrom when the clamp is closed; as set forth in column 3, lines 54-63; and a locking portion (15,16,18,19) for securing the arms together when the clamp is closed; as best seen in Fig.2.

With respect to claims 13, 16, Merritt discloses all the limitations as set forth in column 3, lines 54-63; and as best seen in FIGS. 1-5.

With respect to claim 17, Merritt discloses an umbilical cod clamp (10) comprising a pair of arms (11,12) each having a length in a generally V-shaped configuration having rear end portion associated at an apex and having free end forward end portions normally disposed in a spaced apart relation; as best seen in FIG.1, and being movable towards each other for clamping an umbilical cord between the arms; identification means (30) for identifying the baby; as set forth in column 4, lines 10-40; and a locking portion (15,16,18,19) for securing the arms together when the clamp is closed; as best seen in Fig.2.

With respect to claims 21,22, Merritt discloses all the limitations; as set forth in column 4, lines 10-24.

With respect to claims 23-25, the method steps, as set forth, would have been inherently carried out in the operation of the device as set forth above; and, also as set forth in column 4, lines 41-68; as set forth in column 5, lines 1-65.

***Claim Rejections - 35 USC § 103***

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9,11,14,15,18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Merritt (5,006,830).

With respect to claims 9,11,14,15, it is noted that Merritt did not teach of a grasping portion that is at least about two-thirds of the distance from the rear end portion to the free forward end and at least 1.5 times as wide as a width of the arm and has a length of at least 0.5 cm; and, a channel having a width having a width of about  $\frac{1}{4}$  to  $\frac{1}{2}$  of a width of each arm wherein the depth of the channel increases toward each open end; as claimed by applicant. However, applicant fails to establish the criticality of such dimensions and the examiner believes that any dimensions could have been used since the device would have performed equally as well with any given dimensions depending on the size of the clamp. And, as to the location of the grasping portion, as claimed by applicant, it would have been obvious to one having ordinary skill in the art at the time invention to place the grasping portion anywhere along the length of the arms, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70.

With respect to claims 18-20, although Merritt taught of a color code as an identifying means, it is noted that Merritt did not teach of a color being blue for a boy and a color being pink for a girl; as claimed by applicant. However, associating the color

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blue with a boy and pink with a girl is old and well known in the baby delivery field.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a blue clamp for boy and a pink clamp for girl, since it was known in the art that girl baby wears pink bonnet and boy baby wears blue bonnet.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

5,512,879	4-1996	Stokes
6,212,808	4-2001	Rubel
5,921,991	7-1999	Witehead et al.
5,608,382	3-1997	Webb et al.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pedro Philogene whose telephone number is (703) 308-2252. The examiner can normally be reached on Monday to Friday 6:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P Shaver can be reached on (703) 308-2582. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 305-3591 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

Pedro Philogene  
October 21, 2002

  
PEDRO PHILOGENE  
PRIMARY EXAMINER